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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,634	08/01/2001	Yoon-Hyoung Cho	247/033	3246
7590 04/29/2004				
Lee & STERBA, P.C. Suite 2000 1101 Wilson Boulevard Arlington, VA 22209		EXAMINER PATEL, ASHOK		
		ART UNIT PAPER NUMBER		
		2879		

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/918,634	Applicant(s) AK CHO ET AL.	
	Examiner Ashok Patel	Art Unit 2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 30 October 2003 and 23 February 2004.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1 and 3 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1 and 3 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

 a) ☐ All b) ☐ Some * c) ☐ None of:

 1. ☐ Certified copies of the priority documents have been received.

 2. ☐ Certified copies of the priority documents have been received in Application No. _____.

 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

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1. This office action is in view of: (a) applicant's inquiry on or about January 10, 2004 about status of a revised second terminal disclaimer that was filed on 10/30/2003, (b) applicant's telephonic arguments on or about January 10, 2004 that the final rejection (paper no. 1103) was premature based on a timely filed above-mentioned revised second terminal disclaimer.

The Examiner learned that the terminal disclaimer was filed in a timely manner but was not matched in a timely manner. As per applicant's telephone arguments that the final rejection (paper no. 1103) was premature by way not referring to the revised second terminal disclaimer, the Examiner does not disagree with applicant in this matter. The Final rejection (paper no 1103) was issued and mailed out *prior to* matching of the revised second terminal disclaimer.

However, not going into details of issuing the last final rejection (paper no 1103) prior to the matching of the second revised terminal disclaimer, the Examiner issues a fresh office action considering the second revised terminal disclaimer. Following is merely a substantial duplicate of the last final rejection (paper no. 1103) with removal of paragraph numbers 6, 7 and 9.

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2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kawamura et al ('321, of record).

Kawamura et al disclose applicant's claimed CRT (see Figures 1, 2) including a flat panel (1), a funnel having a neck and an opening, an electron gun (7), a deflection yoke (9), a shadow mask (6), wherein the panel includes a flatly configured outer (front) surface (11) and an inner surface (the surface that is adjacent to a phosphor layer 10) having a non-spherical, convexly curved configuration relative to the outer surface which would inherently satisfying applicant's claimed formula of $Y1 \leq Y2$, wherein Y1 represents a vertical distance between the outer surface and a reflected screen image on a central axis of the panel, and Y2 represents a vertical distance between the outer surface and the refracted screen image in peripheral areas other than the central axis of the panel.

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The new limitation "the panel is formed of a transparent glass having a transmission ratio of 60% or more", is narrative in form and does not include any positive structure and therefore carry a patentable weight.

Alternatively, since Kawamura et al's glass panel is also formed of glass as claimed by applicant, Kawamura et al's glass panel would also inherently transmit at a ratio of 60% or more.

Consequently, Kawamura anticipate applicant's claims 1 and 3.

4. Claims 1 and 3 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Makoto (JP '710, of record).

Makoto et al disclose applicant's claimed CRT (see all drawing Figures) including a flat panel, a funnel having a neck and an opening, an electron gun, a deflection yoke, a shadow mask, wherein the panel includes a flatly configured outer (front) surface (11) and an inner surface (2) having a non-spherical, convexly curved configuration relative to the outer surface which would inherently satisfying applicant's claimed formula of $Y1 \leq Y2$, wherein Y1 represents a vertical distance between the outer surface and a reflected screen image on a central axis of the panel, and Y2 represents a vertical distance between the outer surface and the refracted screen image in peripheral areas other than the central axis of the panel. The

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limitation "a glass having a transmission ratio of 60% or more", is again not given a patentable weight for reasons set forth in the previous paragraph.

Next, alternatively Makoto's glass panel would also inherently transmit at a ratio of 60% or more since Makoto's glass panel is also formed of glass as claimed by applicant.

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1 and 3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5-9, 13-16, 19 and 25-28 of copending Application No. 09/982,984. Although the conflicting claims are not identical, they are not patentably distinct from each other because each of these two co-pending applications

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recites applicant's claimed flat panel CRT including:
configuration of inner and outer surfaces, relationship between
Y1 and Y2, transmission ratio, as what are now being recited in
instant claims 1 and 3.

Comparison of claims is as follows:

Instant application

Co-pending application 09/982,984

Claims 1 and 3:

1, 5-8; 9, 13-16; 19, and 25-28;

This is a provisional obviousness-type double patenting
rejection because the conflicting claims have not in fact been
patented.

7. Claims 1 and 3 are rejected under the judicially created
doctrine of obviousness-type double patenting as being
unpatentable over claims 1, 3-6, 10, 12-15, 19 and 21-24.
Although the conflicting claims are not identical, they are not
patentably distinct from each other because claims 1, 3-6, 10,
12-15, 19 and 21-24 of U.S. Patent no. 6,680,565 recite
applicant's claimed flat panel CRT including: configuration of
inner and outer surfaces, relationship between Y1 and Y2,
transmission ratio, as what are now being recited in instant
claims 1 and 3.

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Comparison of claims is as follows:

Instant application

U.S. Patent 6,680,565

Claims 1 and 3:

1, 3-6; 10, 12-15; 19, and 21-24;

8. The Examiner noted that the limitation "the panel is formed of a glass" is a newly added limitation. That is to say, this limitation was not presented in any claim earlier (this office action is issued in view of applicant's amendment filed on 10/30/2003). The panel of Kawamura et al or Makoto inherently includes glass, as claimed by applicant. Since applicant's *claimed* glass panel is structurally not distinguished from that of Kawamura et al or Makoto's glass panel, the Examiner *additionally/alternatively* takes the position that Kawamura et al or Makoto's glass panel also inherently transmits at a ratio of 60% or more. In order for the transmission function to be given a patentable weight, it must be supported by a sufficient distinguished positive structure.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok Patel whose telephone number is 571-272-2456. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 571-272-2457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.


Ashok Patel
Primary Examiner
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